

1 HONORABLE RICHARD A. JONES  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SCANNING TECHNOLOGIES  
INNOVATIONS LLC,

Plaintiff,

v.

SMARTOSC US LLC,

Defendants.

CASE NO. 2:19-cv-1002-RAJ  
ORDER

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**I. INTRODUCTION**

This matter comes before the Court on Plaintiffs' motion for default judgment.

Dkt. # 12. Having reviewed the record and relevant law, the Court **GRANTS** the motion.

**II. BACKGROUND**

On June 27, 2019, Plaintiff Scanning Technologies Innovations, LLC ("Plaintiff") filed this action for patent infringement. Dkt. # 1 at 1. Plaintiff establishes that it is the owner by assignment of United States Patent No. 9,466,078 ("‘078 Patent") with sole right to enforce the patent and sue infringers. *Id.* ¶ 10; Dkt. # 2. Plaintiff claims that Defendant SmartOSC US LLC ("Defendant") infringes on the ‘078 Patent by "making, using, importing, selling, and/or offering for sale a point of sale system and app covered by one or more claims of the ‘078 Patent" in violation of 35 U.S.C. § 271. Dkt. # 1 ¶ 13.

1 Plaintiff seeks damages resulting from Defendant's infringement under 35 U.S.C. § 284,  
2 pre-judgment and post-judgment interest and costs, as well as "such further relief to  
3 which the Court finds Plaintiff entitled under law or equity." *Id.* ¶ 29.

4 On July 3, 2019, Defendant's registered agent, Ramona Doe, was served with the  
5 summons and complaint. Dkt. # 8. Defendant did not file a response. On September 9,  
6 2019, Plaintiff filed a motion for default based on Defendant's failure to file an answer or  
7 any other responsive pleading. Dkt. # 9. On September 10, 2019, the Clerk of the Court  
8 granted the motion and entered an order of default against Defendant. Dkt. # 11.

9 On April 22, 2020, Plaintiff filed the pending motion for default judgment. Dkt.  
10 # 12. Plaintiff requests damages based upon “a reasonable royalty” in the amount of  
11 “\$1,071,000, but no less than \$50,000.” *Id.* ¶ 4-6. Plaintiff’s calculations are based on  
12 “research and belief . . . that Defendant has relied upon and utilized the technology  
13 embodied in the ‘078 Patent for a substantial portion of Defendant’s business.” Dkt.  
14 # 12-1 ¶ 5. Plaintiff opines that Defendant “utilize[d] the technology embodied in the  
15 ‘078 Patent to produce 70% of its revenue.” *Id.* ¶ 8. Relying on income figures obtained  
16 by Zoominfo, Plaintiff notes that Defendant has an annual revenue of 17 million dollars.  
17 *Id.* ¶ 6. Plaintiff alleges that Defendant should be assessed a three percent royalty on its  
18 alleged usage of Plaintiff’s technology. *Id.* Plaintiff also alleges that Defendant has used  
19 the infringing technology for at least three years. *Id.* Calculating the royalty over three  
20 years based on these factors, Plaintiff concludes it is entitled to \$1,071,000 plus  
21 attorney’s fees and costs. *Id.* Plaintiff also notes that the payments for previous licenses  
22 of the ‘078 Patent range from \$15,000 to \$50,000. *Id.* ¶ 10.

### III. DISCUSSION

24 At the default judgment stage, a court presumes all well-pleaded factual allegations  
25 are true, except those related to damages. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915,  
26 917-18 (9th Cir. 1987); *see also Fair House. of Marin v. Combs*, 285 F.3d 899, 906 (9th  
27 Cir. 2002). The entry of default judgment under Rule 55(b) is “an extreme measure,” and

1 disfavored cases should be decided on their merits whenever reasonably possible. *Cmty.*  
 2 *Dental Servs. v. Tani*, 282 F.3d 1164, 1170 (9th Cir. 2002); *also see Westchester Fire Ins.*  
 3 *Co. v. Mendez*, 585 F.3d 1183, 1189 (9th Cir. 2009).

4 In addition, Federal Rule of Civil Procedure 55(b)(1) permits a court to enter  
 5 default judgment when a plaintiff's claim "is for a sum certain or a sum that can be made  
 6 certain by computation." Fed. R. Civ. P. 55(b)(1). In moving a court for default  
 7 judgment, a plaintiff must submit evidence supporting the claims for a particular sum of  
 8 damages. Fed. R. Civ. P. 55(b)(2)(B). In determining damages, a court can rely on  
 9 declarations submitted by a plaintiff. *Dr. JKL Ltd. v. HPC IT Educ. Ctr.*, 749 F. Supp. 2d  
 10 1046 (N.D. Cal. 2010).

11 Because Plaintiff's damages are calculated based on unconfirmed figures  
 12 regarding the percentage of revenue created by Defendant's allegedly infringing  
 13 technology, as well as the number of years Defendant may have been utilizing the  
 14 allegedly infringing technology, damages cannot be made certain by computation. *See*  
 15 Fed. R. Civ. P. 55(b)(1). The damages calculation is based on unknown factors and  
 16 cannot be verified without further evidence confirming the amount set forth. The Court  
 17 may, however, rely on Plaintiff's declaration that it paid between \$15,000 to \$50,000 for  
 18 licenses for the '078 Patent. *See Dr. JKL Ltd. v. HPC IT Educ. Ctr.*, 749 F. Supp. 2d  
 19 1046 (N.D. Cal. 2010). For this reason, the Court finds that Plaintiff is entitled to  
 20 \$50,000. Plaintiff also requests attorney's fees and costs but fails to provide a calculation  
 21 of such costs or any evidence supporting it. The Court will permit Plaintiff to file  
 22 supplemental material verifying attorney's fees and costs within two weeks of the date of  
 23 this Order for consideration by the Court.

24 **IV. CONCLUSION**

25 For the reasons stated above, it is hereby **ORDERED** that:

26 (1) Default judgment is entered in favor of Plaintiff Scanning Technologies  
 27 Innovations, LLC;

- (2) Default judgment is for the total amount of \$50,000;
- (3) Plaintiffs' counsel shall provide the Court with an updated accounting of attorney's fees and costs as well as supporting documentation within fourteen (14) days of this order so that judgment may be entered.

Dated this 1st day of March, 2021.

Richard D. Jones

The Honorable Richard A. Jones  
United States District Judge